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1. The first step is to identify the problem or question that needs to be answered.

100-443887-100

Office Action Summary

Application No.

10/761,527

Applicant(s)

SHUE ET AL.

Examiner

Shumaya B. Ali

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3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>detailed action</u> . |

Response to Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under as being rejected under 35 U.S.C. 103(a) as being unpatentable over Gelinas et al. US patent 6,817,362 B2 in view of Montesi US Patent 4,630,604 and in view of Shigematsu et al US Patent No. 4,501,272

1. As to claim 1, Gelinas et al. disclose respiratory mask comprising: a shield (**fig.7 reference object 24**) including a bent sheet ("**cup shaped**", **therefore considered to have some curved/bent section, see also col.1 lines 50-51**) to air, that defines a rim-receiving recess (**concave portion of the cup**) at a concave side ("**cup shaped**" **inherently has a concave side**) of said bent sheet, and that has a central portion (**fig.7 concave side is capable of covering the mouth, and a curved contour, 52 is capable of contouring the nose of a wearer**) which is adapted to confront the nose and the mouth of a wearer (**col.4 lines 34-35**); and a mask body (**fig.7 reference object 92**) detachably (**col.2 lines 7-9**) connected to said shield and including a rim (**fig.7 the periphery of reference object 30**) that is received in said receiving recess, that defines a chamber (**concave side of the mask**) therein for receiving the nose and the mouth

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of the wearer, and that has an outer end (**fig.7 reference object 30**) adapted to contact the face of the wearer, said rim being formed with at least an aperture ('void space' col.1 line 54) that is disposed between said inner (**improper antecedent basis to claimed terminology: "said inner"**) and outer ends and that is in spatial communication with said chamber, said mask body further including a filter (**fig.7 reference object 12**) inner end opposite to contact the face of the sheet that is permeable ("**recess**" col.2 line 32) air and that is attached to said rim to cover said aperture (**col.1 lines 54-56**), Gelinas however does not disclose said filter sheet cooperating with said bent sheet define a gap there between, said gap being fluid communication with said chamber through said filter sheet and said aperture, Montesi US Patent 4,630,604 clearly depicts gap/ space between a mask 12 and an air impermeable shield 14, see figure 3, and such structure is considered capable of shielding axial penetration of ambient air into the chamber. Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the respiratory mask of Gelinas in view of Montesi for the purposes of preventing axial air penetration into the chamber. Gelinas further does not disclose "air impermeable". However "air impermeable" shield used with masks are known in the art. Shigemastu et al teach in figure 9 air impermeable shield (52) used with a mask (55). **Therefore, it would have been obvious to one of ordinary skills in the art to modify the shield of Gelinas et al in view of Shigemastu et al for the purposes of providing airtight shield/air impermeable layer/wall to the mask body.**

2. **As to claim 2, Gelinas et al. disclose** the respiratory mask of Claim 1, wherein said central portion of said bent sheet is formed with an endless groove (**fig.5 reference object 58**) that protrudes outwardly of said rim-receiving recess and that receives said outer end of said rim therein.

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3. **As to claim 3, Gelinas et al. disclose** the respiratory mask of Claim 1, wherein said rim further has an outer **(surface 30, outer end is facing and considered to be in contact with the concave portion of the filter)** surface extending between said inner and outer ends of said rim, said filter sheet having a rim portion **(fig.5 reference object 20)** that surrounds and that covers said outer surface said rim, a pair of opposite side portions (fig.7 reference object 16*) that extend outwardly from said rim portion for contacting the cheeks of the wearer, and a lower portion (fig.7 reference object 18a*) for contacting the chin of the wearer **(*underlined limitations are directed to structures of the filter, since the filter is directly sitting on and forming the shape of the face piece/mask, the mask is considered having corresponding limitations of the filter as well).**
4. **As to claim 4, Gelinas et al. disclose** the respiratory mask of Claim 3, wherein said bent sheet has top **(toward reference object 52, fig.7)** and bottom **(side opposite to 52)** sides, said bent sheet further having a pair of opposite cheek (fig.7 reference object 16') portions that extend transversely and respectively from two opposite sides of said central portion and that respectively confront said side portions said filter sheet, and a chin portion (fig.7 reference object 18a') that extends transversely from said bottom side of said central portion, that interconnects said cheek portions **('underlined limitations are directed to structures of the filter, since the cover is directly sitting on and forming the shape of the filter, the cover is considered having corresponding limitations of the filter as well), and that confronts said lower portion of said filter sheet, said cheek and chin portions of said bent sheet cooperating (bent sheet is secured on top of the filter, therefore "cooperating") with said side and lower portions of said filter sheet to define said gap there among.**
5. **As to claim 5, Gelinas et al. disclose** the respiratory mask of Claim 4 wherein each of said cheek portions of said bent sheet is formed with at least a strap hole **(fig7 reference object 82, since 82 is**

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connected to 62, the holes are considered part of the bent section) said respiratory mask further comprising at least a pair of straps (**fig.1 reference object 100**) that are respectively secured to said side portions of said filter sheet and that respectively extend through said strap holes in said cheek portions of said bent sheet (**see fig.1**).


6. **As to claim 6, Gelinas et al. disclose** the respiratory mask of Claim 5, wherein said shield further includes a flexible top rib (**fig.4 reference object 56**) that secured crosses said central and cheek portions said top side of said bent sheet and that of said bent sheet, and a flexible lower rib (**fig.4 seems to depict a top and bottom "lower" 56**) that is secured to said bent sheet below said top rib and that crosses said central and cheek portions said bent sheet, said central portion of said bent sheet being formed with a V-shaped groove (**the limitation is considered an alternative structure to the bent sheet, therefore, bent sheet disclosed by Gelinas et al. is considered to meet the limitation**) that extends from said bottom side to said top side of said bent sheet in a transverse direction relative to said and lower ribs, said filter sheet further having a central portion (**fig.5 reference object 20**) that extends inwardly said rim from said rim portion of said filter sheet and that covers said chamber at said outer end protrusion that protrudes outwardly from said central portion of said filter sheet into said V-shaped groove (**see fig.7**).

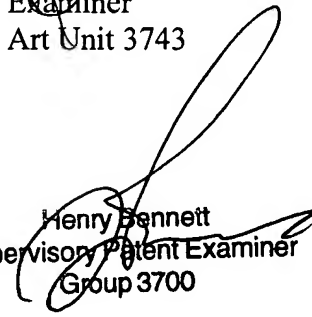
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shumaya B Ali
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Art Unit 3743


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